

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

CHRISTINA PAOLI,)	
)	No. CPU6-10-000214
Plaintiff,)	
)	
vs.)	
)	
BOB BREEZE,)	
)	
Defendant.)	
)	

Submitted October 21, 2010
Decided October 25, 2010

Christina Paoli, *Pro Se*
Bob Breese, *Pro Se*

**DECISION ON APPEAL FROM COMMISSIONER'S
RECOMMENDATION**

Plaintiff Christina Paoli appeals the Commissioner's recommendation this action be dismissed. For the following reasons, the Court accepts the Commissioner's recommendation, and enters judgment accordingly.

BACKGROUND

Plaintiff filed this action in the Court of Common Pleas for Sussex County on February 1, 2010. The complaint alleges that defendant Bob Breeze (the correct spelling is "Breese") owes Plaintiff "\$3,926.32 for a Coachman Camper." Defendant filed an answer to the complaint, alleging that Plaintiff's present claim "is dealing with the same facts whitch [*sic*] was file [*sic*] in Court #16 and judgment was awarded to Robert Breese." On September 2, 2010 a Pre-Trial Conference was held before the

Commissioner. At the hearing the Commissioner held that the defendant had raised the issue of *res judicata*, and then reviewed a copy of the January 21, 2010 Order entered by the Honorable Cathleen Hutchison of the Justice of the Peace Court #16 in and for Kent County, Delaware, in Case No. JP16-09-7547. The Kent County court in its Order noted that Plaintiff “is seeking \$3,000.00 from the alleged sale of a Coachman Camper.” After a full trial, that Court found that Plaintiff had “not proven her case by a preponderance of the evidence,” and entered judgment in favor of defendant Breeze and against Plaintiff Paoli. The Commissioner therefore held that this action was barred by *res judicata*, and recommended the action be dismissed. Plaintiff appeals the Commissioner’s recommendation.

STANDARD OF REVIEW

A dismissal of an action is a case-dispositive determination. When reviewing case-dispositive matters the judge of the Court reviews the decision *de novo*. A judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Commissioner. CCP Civ. R. 112 (A) (4) (iv).

DISCUSSION

The Court has reviewed *de novo* the transcript of the hearing before the Commissioner, and his findings and recommendations. The Court has also reviewed and considered Plaintiff’s arguments set forth in her appeal. Plaintiff now claims that, while the first action in Kent County was for the unpaid sale price of the Coachman Camper, this present Sussex County action against the same defendant is for unpaid *rent* due on the same Coachman Camper. The Court is not persuaded by this claim. It is patently clear that Plaintiff now attempts to sue defendant for the same subject matter and cause of action on which judgment previously was entered against Plaintiff in Kent County. Even if Plaintiff’s claim that she now seeks “rent” rather than the sale price due

were credible, as the Commissioner properly noted, “the procedural bar of res judicata extends to all issues which might have been raised and decided in the first suit as well as to all issues that actually were decided.”¹ Plaintiff failed to bring this “rent” claim when she filed the first action in Kent County, and is now barred from doing so. Plaintiff did not timely appeal the Kent County JP Court action to the Court of Common Pleas for Kent County; she cannot re-file it in this Court. The Court therefore agrees with the Commissioner’s findings and recommendation, and accepts them.

CONCLUSION

The Commissioner’s recommendation is **ACCEPTED**. The action is **DISMISSED**.

IT IS SO ORDERED, this ____ day of October, 2010.

Kenneth S. Clark, Jr.
Judge

¹ Citing *LaPoint v. AmerisourceBergen Corp.*, 970 A.2d 185 (Del. 2009).